

Application No. 10/566,850
Reply to Office Action of October 2, 2008

Docket No.: 209546-104849

REMARKS

Claims 1-7 and 9-23 are pending in this application. Favorable reconsideration is respectfully requested in light of the following remarks.

Applicant confirms its election of Group I - claims 1-8, 9-15 and 18-23 directed to products. Applicant thanks Examiner Clark for presenting the opportunity for an oral restriction on September 9, 2008, as the process facilitates efficient and prompt prosecution. To this end, Applicant requests that the Examiner contact Applicant before issuing any subsequent rejection of this case provided that the Examiner finds the arguments set forth below unpersuasive.

Claims 1-18 stand rejected over Segawa (U.S. Patent No. 4,068,034) ("Segawa"); claims 9-15 and 18-22 stand rejected over Segawa in view of Ogawa (U.S. Patent Publication No. 2004/0124668) ("Ogawa"); and claim 23 stands rejected under Segawa and Ogawa in view of Earnest (U.S. Patent Publication No. 2004/0202807), in each case pursuant 35 U.S.C. § 103(a).

Applicant first submits that Segawa, Ogawa, Earnest and the remaining references of record do not disclose, teach or suggest (either alone or in permitted combination) Applicant's inventions set forth in independent claims 1, 9 and 18, namely the presentation of a core layer bonded to metalized film layer each having a contour that has a non-flat topography that corresponds with an adjacent vehicle surface.

Absent any supporting documentary evidence, the previous action states that "[t]hose skilled in the art will recognize that thermoplastic materials such as polyethelyne terephthalate and polypropylene are fully capable of conforming to the contour of a given surface topography." With respect to claims 1 and 2, the Examiner admits this deficiency on page 5; the action was silent regarding this limitation in claims 9 and 18 but assumes that the Examiner intended the argument to apply in these cases as well. Applicant does not acquiesce in the Examiner's characterization of the claims and respectfully challenges the Examiner's apparent taking of Official Notice in the Office Action pursuant to 37 C.F.R. 1.104(d)(2) and MPEP § 2144.03. To the extent that the examiner may be taking Official Notice (without expressly so stating) for the alleged combination of Segawa and/or Ogawa and the Examiner's knowledge of the art, Applicant reasonably requests support for the taking of Official Notice, as provided by

Application No. 10/566,850
Reply to Office Action of October 2, 2008

Docket No.: 209546-104849

37 C.F.R. 1.104(d)(2) and MPEP § 2144.03. If documentary evidence of such Official Notice is not provided in the next Office Action, Applicants respectfully submit that the § 103 rejections should be withdrawn. In the alternative, Applicant submits that Segawa cannot be combined with any such teaching as all of the figures of Segawa illustrate both layers as being flat and often refers to such layers as a "sheet", see, e.g. Col. 4, ll. 20-29).

Referring now to claims 9-15 and 18-23, Applicant contends that Ogawa (Paragraph 36 and Fig 3A were relied on by the Examiner) cannot be combined with Segawa to yield Applicant's invention, namely the combination therebetween is either impermissible or does not yield the inclusion of a surface of the metalized film layer bonded to a core layer and presented against the surface of an outer panel without an airgap. Instead, Ogawa only teaches using a layer of high reflectivity material and positioning the side having higher emissivity towards the outside panel (e.g., presenting the shinier side of tinfoil against the outer panel, where both sides have high reflectivity.)

In this regard, Applicant identifies that the material attached to the outer panel of Ogawa (as illustrated in Fig. 3A) is specifically called-out as "high reflectivity material." The figure in Ogawa shows only a single layer and Applicant (along with one of ordinary skill in the art) may draw the only reasonable inference that this single layer is high reflectivity material. Paragraph 50 of Ogawa identifies such material as being selected from the group of "aluminum foil, a copper foil, an aluminum foil with a surface protected with a transparent resin layer, a copper foil with a surface protected with a transparent resin layer (again, to maintain the reflectivity), a resin film with aluminum adhered thereto, a resin film with reflective coating material applied thereto, and a resin film with a reflected and/or white pigment therein, in each case the resin presumably preserves or provides high reflectivity. Further, Ogawa sets forth that Figure 3A illustrates that this high reflectivity material is provided on the *upper part* of the back surface of the outer panel 1. See Paragraph 62. Paragraph 34 of Ogawa teaches that "[t]he quantity of heat flux is obviously larger in a portion which is at an angle closer to 90 degrees with respect to the direction of the sunlight, namely, in the upper part of the panel" and paragraph 45 teaches that, desirably, the surface facing the back surface of the outer panel (i.e., the surface having the high reflectivity material) includes elements constituting the cabin interior "namely, interior trim members and the inner panel." So, the back surface of the high reflectivity material, therefore, directly faces the interior trim members. Thus, the reflective

Application No. 10/566,850
Reply to Office Action of October 2, 2008

Docket No.: 209546-104849

material described in Ogawa cannot be combined with the combination of reflective material and non-reflective material as set forth in Segawa.

Finally, Ogawa decries using materials such as those disclosed in Segawa, stating at Paragraph 7 that “[a] coating material suppressing absorption of solar radiation in the front surface of the outer panel, which is publicly known, for example, in a construction field, does not satisfy application requirements in a field which requires high designability like the outer panel of a vehicle.” Thus, Ogawa itself teaches that the prior art disclosed in Segawa cannot be used to achieve its disclosed function.

For at least the reasons set forth above, Applicant submits that all of the pending claims are in condition for allowance and solicits the Examiner to pass this case to issue. In closing, and as set forth above, Applicant petitions the Examiner to contact the undersigned before maintaining a rejection so as to explore any deficiencies that may be overcome in an expedited and efficient manner.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-3145, under Order No. 209546-104849 from which the undersigned is authorized to draw.

Dated: January 2, 2008

Respectfully submitted,

By 
Tom Appledorn
Registration No.: 59,348

38500 Woodward Avenue
Suite 100
Bloomfield Hills, Michigan 48304-5048
(248) 566-8522

OAKLAND 1563076.1